

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

NATHAN W. GWILLIAM, CRYSTAL
D. GWILLIAM, ELEVATI, INC., AND
ARACAJU, INC.,

Plaintiffs,

v.

PROMEDIA, INC.,

Defendant.

Case No.: SACV 17-00584-CJC(KESx)

ORDER DISMISSING CASE
WITHOUT PREJUDICE

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1 On September 25, 2014, Defendant filed a lawsuit against Plaintiffs in Orange
2 County Superior Court. (Dkt. 7-2 Ex. A.) On March 30, 2015, Plaintiffs filed a motion
3 in the state court proceeding to dismiss or stay Defendant's complaint. (Dkt. 7-2 Ex. C.)
4 On June 8, 2015, the Orange County Superior Court denied Plaintiffs' motion. (Dkt. 8-3
5 Ex. 1.) Plaintiffs appealed the court's order, (Dkt. 7-2 Ex. D at 2, 5), and the California
6 Court of Appeal affirmed the Superior Court on February 15, 2017, (*Id.* at 7-9).

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8 On March 31, 2017, Plaintiffs commenced the instant action by filing a petition to
9 compel arbitration and stay the state court action pursuant to 9 U.S.C. § 4 before this
10 Court. (Dkt. 1.) Plaintiffs then filed a motion to compel arbitration on April 10, 2017,
11 (Dkt. 7), which the Court denied on May 5, 2017, (Dkt. 10). No other issues are pending
12 in this action. Months later, on August 25, 2017, Plaintiffs filed a notice of voluntary
13 dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (Dkt. 12.)
14 Thereafter the Clerk terminated the case. (*See* docket entry dated Aug. 25, 2017.)
15 Defendant objected to the dismissal and requested that the Court vacate Plaintiffs'
16 voluntary dismissal on procedural grounds. (Dkt. 13.) On September 13, 2017, the Court
17 held that Rule 41(a) did not permit Plaintiffs to voluntarily dismiss a petition to compel
18 arbitration, and vacated Plaintiff's voluntary dismissal of the action. (Dkt. 14.) Neither
19 Plaintiffs nor Defendant have taken any action since that date.

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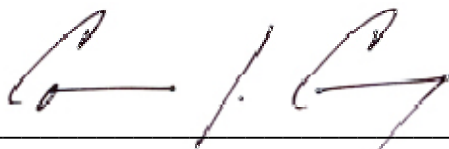
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1 On the Court's own motion, the Court DISMISSES Plaintiffs' action WITHOUT
2 PREJUDICE. The underlying dispute between Plaintiffs and Defendant is pending in
3 state court, and no issues are pending before this Court. Defendant is free to file any
4 post-trial motions, such as a motion for attorney's fees, if Defendant believes it is
5 appropriate. See, e.g., *Moore v. Permanente Med. Grp., Inc.*, 981 F.2d 443, 445 (9th Cir.
6 1992) ("it is clear that an award of attorney's fees is a collateral matter over which a court
7 normally retains jurisdiction even after being divested of jurisdiction on the merits.")

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9 DATED: December 8, 2017

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12 CORMAC J. CARNEY
13 UNITED STATES DISTRICT JUDGE
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